



Commonwealth of Virginia

GENERAL ASSEMBLY
RICHMOND

June 8, 2015

The Honorable Nancy Rodrigues
Secretary of Administration
Patrick Henry Building
1111 East Broad Street
Richmond, Virginia 23219

Dear Nancy,

We noticed on townhall.virginia.org proposed changes to the voter application and related regulations (1VAC20-40-70) to be published in the near future for public comment. We have reviewed these proposed changes to the Virginia Voter Registration Application and offer the following comments and recommend changes to the proposal. We respectfully request these changes be made before the proposal is published for formal public comment. Moreover, we request that the public comment period extend for a minimum of 30 days.

Locating the receipt on the front side of the application form is a good idea. However, we believe that if the applicant submits the application to a person other than a General Registrar or his staff, then the name of the person receiving the application should be required, regardless of whether an office or group is involved. For example, the receipt should require "name of individual receiving application and his group or office, if applicable." The person receiving the application should also be required to sign the receipt, vouching for the fact that the receipt will be submitted to the appropriate General Registrar in addition to the other provisions listed on the receipt. In addition, to prevent identity theft, a requirement that the application not be copied for any purpose should be specifically stated on the receipt and in the regulations.

Locating the signature line as the last item (# 7) on the form rather than next to last (# 6) as in the existing form is a good idea. This clarifies that Previous Voter Registration Information is part of the required information.

The penalty statement in the Affirmation is a good improvement. However, the affirmation statement should not be used as a substitute for correctly completing the application as required by the Code of Virginia (§24.2.418(A)). The Code states in pertinent part (emphasis added):

"The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored. The form shall contain

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a statement that whoever votes more than once in any election in the same or different jurisdictions shall be guilty of a Class 6 felony. Unless directed by the applicant or as permitted in § 24.2-411.1 or 24.2-411.2, the registration application shall not be pre-populated with information the applicant is required to provide.”

We oppose proposed additions presently listed as 8, 11, 12 and 13 to the non-material provisions of VAC 20-40-70 B relating to gender, citizenship, a felony record, or mental incapacitation, and urge that these be changed. The proposed changes would permit an application to be accepted with this important information omitted.

Gender is an increasingly important item to include in the voter's record in our multicultural society in which gender may not be easily recognizable to some poll workers by a person's name.

Using the affirmation statement to answer the questions regarding citizenship, felony record and mental incapacitation eliminates the need for the applicant to specifically address these important issues that are critical to determining eligibility to register to vote. Requiring this specific information does not create an unnecessary burden. Further, since the affirmation statement also refers to age and residency, it could invite applicants to challenge the requirement to provide birth date and address on the basis that this information is non-material as well. Moreover, our experience with voter registration and elections suggests that only a small number of applications would contain omissions, and thus follow up by General Registrars to obtain the required information would not be onerous.

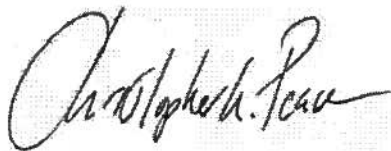
The effect of the proposed changes to the regulation is to render the statutory requirement to state gender, citizenship, felony conviction and mental incapacitation irrelevant in spite of Virginia law to the contrary.

The purpose of §24.2-418(A) in the Code is to ensure factual accuracy, clarity, ease of use by poll workers in voter verification, and to deter fraud. The proposed regulations noted above would weaken the integrity of Virginia's voter application process and thus elections as well. It would be unfortunate if these changes went into effect, necessitating the General Assembly to act during the 2016 session to provide a legislative correction. We are also concerned that the proposed regulations, if implemented, could encourage legal challenges by private parties. With this in mind, we urge that proposed changes to the Voter Registration Application Regulations and Form be modified to require that all information in boxes 1 and 5 be completed as a condition of registering to vote.

Sincerely,

RT Steven Landes

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cc: Edgardo Cortes

Members of the House of Delegates who have signed this letter:

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